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## **BOARD OF PUBLIC UTILITIES**

### **Rules of Practice and Procedure of the Office of Cable Television Proposed Readoption with Amendments:**

#### **N.J.A.C. 14:17**

Authorized by: Celeste M. Fasone, Director, Office of Cable Television (with approval of the Board of Public Utilities, Jeanne M. Fox, President; Frederick F. Butler, Commissioner; Carol J. Murphy, Commissioner, Connie O. Hughes, Commissioner and Jack Alter, Commissioner)

Authority: N.J.S.A. 48:5A-10

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

BPU Docket Number: CX03060455

Proposal Number: PRN 2004-\_\_\_\_\_

A public hearing concerning the proposal will be held on Tuesday, February 24, 2004 at 10:30 A.M. at:

Board of Public Utilities  
Hearing Room, 8th Floor  
Two Gateway Center  
Newark, NJ 07102

Submit written comments by April 2, 2004 to:

Celeste M. Fasone, Director  
Office of Cable Television  
Two Gateway Center  
Newark, NJ 07102

The agency proposal follows:

### **Summary**

Pursuant to the New Jersey Cable Television Act (Cable Television Act), specifically N.J.S.A. 48:5A-9 and 10, the Director of the Office of Cable Television, with approval of the Board of Public Utilities (hereinafter, the Board) is empowered to promulgate rules and procedures necessary to carry out the purposes of the Cable Television Act. N.J.A.C. 14:17 contains the procedural rules governing cable television companies. These rules are necessary to ensure orderly regulation of the cable television industry in the State of New Jersey.

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Pursuant to N.J.S.A 52:14B-5.1c, N.J.A.C. 14:17, Rules of Practice and Procedure of the Office of Cable Television, is scheduled to expire on March 5, 2004. The Director and the Board of Public Utilities have reviewed the rules and determined that they are necessary, reasonable and proper for the purpose for which they were originally promulgated and amended.

On June 4, 2003, the Office of Cable Television (hereinafter, the OCTV) wrote interested parties and informally solicited suggestions for changes in the procedural rules. Comments and responses relevant to procedural rules are noted below in the summary of substantive provisions. Informal comments were received on behalf of WVT Communications. No other responses were received.

The Board proposes that N.J.A.C. 14:17 be readopted with certain amendments. These amendments fall into the categories of: (1) technical changes for clarity of the rules; (2) amendments to bring the rules into compliance with the general rules of practice for the Board (N.J.A.C 14:1) as well as federal law and state statutes; and (3) modification and/or deletion of rules that have become obsolete.

The substantive provisions of the rule proposed for readoption and amendment by the Board are summarized as follows:

N.J.A.C. 14:17-1.1 pertains to the scope of the rules.

N.J.A.C. 14:17-1.2 pertains to construction of and amendments to the rules.

N.J.A.C. 14:17-1.3 defines certain words and terms utilized in this chapter. The Board proposes to amend the definition of "Commissioner" to reference the correct designation of the agency, the Board of Public Utilities, and not the former Board of Regulatory Commissioners, as presently written.

N.J.A.C. 14:17-1.4 designates the OCTV's official address.

N.J.A.C. 14:17-1.5 designates the official hours of the OCTV.

N.J.A.C. 14:17-1.6 pertains to the transmittal of communications with the Board and OCTV. The Board proposes to add a section (d) to clarify that facsimile copies received in place of hard copies will not be considered as officially received.

N.J.A.C. 14:17-1.7 pertains to public records maintained by the Board and the Cable Television Advisory Council.

N.J.A.C. 14:17-1.8 pertains to the use of cameras and recording devices at proceedings before the Board and the role of the Office of Communications in making arrangements for such use.

N.J.A.C. 14:17-2.1 notes that the Board and OCTV have statutory authority to collect fees and charges, pursuant to N.J.S.A 47:1A-2. N.J.A.C. 14:17-2.1(b) is intended to parallel the Board's rule contained at N.J.A.C. 14:1-2.1 in that the collection of fees and charges is inapplicable to cable television operators except for as otherwise provided for. N.J.A.C. 14:1-

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2.1 provides that, pursuant to N.J.S.A. 48:2-72, the collection of fees and charges shall be inapplicable to public utilities subject to assessment pursuant to N.J.S.A. 48:2-59.

N.J.A.C. 14:17-2.2 requires all fees to be paid prior to the acceptance of any filing or the processing of any request for copies of documents.

N.J.A.C. 14:17-3.1 pertains to evidence of authority to appear before the Board.

N.J.A.C. 14:17-3.2 pertains to ethical conduct before the Board and *ex parte* communications.

N.J.A.C. 14:17-3.3 pertains to the appearance of former employees before the Board.

N.J.A.C. 14:17-4.1 defines pleadings before the Board.

N.J.A.C. 14:17-4.2 sets forth the number of copies of pleadings to be filed with the Board.

N.J.A.C. 14:17-4.3 pertains to attachments to pleadings.

N.J.A.C. 14:17-4.4 pertains to defective pleadings.

N.J.A.C. 14:17-4.5 pertains to service and notice of proceedings.

N.J.A.C. 14:17-4.6 pertains to verification of pleadings.

N.J.A.C. 14:17-4.7 pertains to the amendment of pleadings as a result of changes in fact or circumstances. The Board proposes to add that, pursuant to FCC requirements, amendments can be filed without being considered a new filing.

N.J.A.C. 14:17-6.1 pertains to the form and content of petitions.

N.J.A.C. 14:17-6.2 pertains to those occasions where the relief sought in a petition also requires the approval or authorization of any other State or Federal regulatory body.

N.J.A.C. 14:17-6.3 pertains to the joinder of requests for relief.

N.J.A.C. 14:17-6.4 pertains to the procedures to be employed by the Board upon filing of a petition.

N.J.A.C. 14:17-6.5 pertains to filing of complaints in lieu of petition and to complaint procedures where the OCTV is designated as complaint officer by the municipal consent.

N.J.A.C. 14:17-6.6 pertains to petitions for certificates of approval.

N.J.A.C. 14:17-6.7 pertains to petitions for approval of the modification or amendment of the terms or conditions of a municipal consent upon which a certificate of approval is based.

N.J.A.C. 14:17-6.8 pertains to petitions for approval of the transfer of certificates of

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approval. The Board proposes to amend (a)1 and (a)2. The Board believes the existing rule's language is unclear. The purpose of these provisions is to insure the Board that the acquiring party has prior knowledge of the franchise terms and conditions which it will be assuming upon closing. The proposed amendments require that an affidavit must be submitted with the petition, from both parties, affirming that a copy of the municipal consent ordinances and certificates of approval were provided to the acquiring party.

N.J.A.C. 14:17-6.9 pertains to petitions for renewal of certificates of approval.

N.J.A.C. 14:17-6.10 pertains to petitions for the approval of the sale or lease of property. The Board proposes to modify this section to change questions into statements in keeping with the style of the Board rules applicable to other regulated entities.

N.J.A.C. 14:17-6.11 is reserved.

N.J.A.C. 14:17-6.12 pertains to petitions for reconsideration of assessments.

N.J.A.C. 14:17-6.13 pertains to petitions for authority to issue stocks, bonds, notes, other evidence of indebtedness or to execute mortgages.

N.J.A.C. 14:17-6.14 pertains to petitions for authority to transfer capital stock.

N.J.A.C. 14:17-6.15 pertains to petitions for permission to lend money or property.

N.J.A.C. 14:17-6.16 presently pertains to tariff filings which do not propose increases in charges to customers. The Board proposes to modify this section so that, when a cable television company that changes a rate that is unregulated, or changes any terms or conditions, tariffs will be filed. In addition, the Board proposes that notice for any change in rate under this provision must be noticed in accordance with N.J.A.C. 14:18-3.16. Because these filings are not subject to Board rate jurisdiction, informational requirements such as *pro-forma* income statements, estimated balance sheets, and effect on revenue are unnecessary.

In informal comments, WVT Communications recommended that this section be amended to provide that cable television companies that have received a finding of effective competition from the Federal Communications Commission (hereinafter, the FCC) should be exempted from this rule. The Board does not believe that cable television companies that have received a finding of effective competition from the FCC should be exempted from this rule. The purpose of the rule, which applies to all cable television companies and also covers non-rate regulated services, is to provide customers and the OCTV information about what is to be changed. This information is helpful to customers in determining whether to keep a service and to the OCTV to answer questions from customers, in its day-to-day responsibility as complaint officer for most of the State's 562 franchised municipalities.

N.J.A.C. 14:17-6.17 pertains to tariff filings or petitions which propose increases in charges, and requires Board adherence to FCC rate regulation rules. The Board has proposed to modify this section to provide that cable television companies that change rates that are regulated must file tariffs and rate applications under this section.

As written, this section is identical to N.J.A.C. 14:1-5.1 et seq. for utilities filing full rate

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case petitions, and is not applicable to OCTV rate filings. Rate filings for cable television companies must conform to FCC regulations and require different information than what is currently required in this provision. The Board proposes amendments to N.J.A.C. 14:17-6.17 would make the rule applicable to current FCC cable television rate filings. It is proposed that (a)1-7 be deleted, and that the regulations be readopted with amendments to reflect that the filing must contain information required under the FCC rules and forms. This section is also proposed to be revised to include a requirement that cable television operators file with the Board, pursuant to federal law, for any adjustment in the basic rate (either operator selected rate or maximum permitted rate as defined by the FCC), not just an increase. There is also a codification of the federal 30 day notice requirement prior to implementing new rates, as it applies to tariffs. Furthermore, a provision which requires when the tariff will go into effect has been proposed for this section. The rule as written required cable television companies to file under this section in accordance with N.J.A.C. 14:17-6.16, which requires that the cable television operator contain a statement when the tariff would be effective. Since the reference to N.J.A.C. 14:17-6.16 has been removed from this section, the language of N.J.A.C. 14:17-6.16(a)4 has been added.

During the rulemaking for the Board's substantive cable TV rules (N.J.A.C. 14:18), the Division of Ratepayer Advocate (hereinafter, the DRA) proposed requirements detailing additional data to be provided by cable television operators when filing FCC Forms 1205 and 1240. The DRA contended that it has encountered problems in reviewing the filings by the cable television operators because records are not kept that permit analysis of these filings in an appropriate manner. The DRA requested the Board adopt new rules requiring cable television operators to keep and submit to the Board and the DRA the detailed records by system regarding equipment and installations activities and profit and loss statements. The DRA also asked the Board to require filings that identify all employees and costs allocated between cable and non-cable services in order to address the potential for cross subsidization between traditional cable television services and non-cable television services such as cable modem service. At that time, the Board noted that the DRA suggestion would be more appropriately addressed under the rulemaking for N.J.A.C. 14:17, undertaken herein. However, upon consideration of the DRA's comments, the Board believes that while the information sought by the DRA is useful, the proposal herein and FCC Reports and Orders give greater flexibility to the Board staff and DRA to formulate requests for information in the course of the rate litigation process. A blanket checklist of submissions may not be required in processing each rate case filed and such specific rules could add to both the time and cost of processing rate application filings. For example, in some expedited cases and even in some litigated cases, this information is not necessary and would be overly burdensome to cable television operators. The Board believes this information would be more appropriately requested on a case-by-case basis.

In informal comments, WVT Communications recommended that this section be amended to provide that cable television companies that have received a finding of effective competition from the FCC should be exempted from this rule. The Board believes that cable television companies that have received a finding of effective competition from the FCC are exempted from this rule as they are not required to file under the FCC rate regulations. However, they are still required to file informational tariffs under N.J.A.C. 14:17-6.16.

N.J.A.C. 14:17-6.18 pertains to petitions for approval of a merger or consolidation. The Board proposes to modify this section to change questions to statements to conform its written

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style to the Board's rules.

N.J.A.C. 14:17-6.19 pertains to petitions for permission to keep books and records outside the State of New Jersey.

N.J.A.C. 14:17-6.20 pertains to petitions by municipalities for permission to charge franchise fee above that prescribed in N.J.S.A. 48:5A-1 et seq.

N.J.A.C. 14:17-6.21 pertains to petitions to set aside municipal or county refusal of zoning or other necessary authorization refusal pursuant to N.J.S.A. 48:5A-17(e).

New Section N.J.A.C. 14:17-6.22 is proposed to require filings by private aggregators in accordance with new legislation, N.J.S.A. 48:5A-64, which became effective on August 12, 2003. This statute provides that a private aggregator may enter into a contract with two or more municipalities for the purpose of facilitating the joint action of those municipalities in granting municipal consent for the provision of cable television service and that anyone wishing to be an aggregator must register with the office. Pursuant to the statute, the Board proposes to require aggregators to register with the OCTV prior to entering into a contract with two or more municipalities. In filing, the aggregator must provide basic information, including name, address, telephone number, business or organization background, and business or organization profile and must provide annual updates of this information to the office. The OCTV has developed a form on which this information shall be filed and, in general, requires filing of the information listed by this new amendment to N.J.S.A. 48:5A-1 et seq.

N.J.A.C. 14:17-7.1 pertains to the form and content of answers and replies filed in proceedings before the Board.

N.J.A.C. 14:17-7.2 pertains to the time for the filing of answers and replies filed in proceedings before the Board.

N.J.A.C. 14:17-8.1 sets forth the purposes of conducting pre-transmittal conferences.

N.J.A.C. 14:17-8.2 pertains to the initiation of pre-transmittal conferences.

N.J.A.C. 14:17-8.3 pertains to the stipulation of pre-transmittal conference results.

N.J.A.C. 14:17-8.4 sets forth the authority of Board or OCTV-designated officers.

N.J.A.C. 14:17-9.1 sets forth the procedures to be followed in contested cases. The Board proposes to amend this section to reference the correct designation of the agency, the Board of Public Utilities, not the Board of Regulatory Commissioners, as presently written.

N.J.A.C. 14:17-9.2 pertains to oral argument before the Board after receipt of an initial decision and the exceptions and answers thereto.

N.J.A.C. 14:17-9.3 pertains to the review of an initial decision by the Board on its own motion.

N.J.A.C. 14:17-9.4 sets forth the method of reopening a hearing prior to the issuance of

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a final decision by the Board.

N.J.A.C. 14:17-9.5 pertains to motions to reopen a proceeding after the issuance of a final decision by the Board.

N.J.A.C. 14:17-9.6 pertains to motions for the rehearing, reargument or reconsideration of a proceeding.

N.J.A.C. 14:17-9.7 pertains to motions and answers on rehearing.

N.J.A.C. 14:17-10.1 pertains to uncontested case proceedings before the Board.

N.J.A.C. 14:17-10.2 pertains to the designation by the Board of a person to act as the Board's representative to conduct a hearing in an uncontested matter pending before the Board.

N.J.A.C. 14:17-10.3 pertains to the filing of pleadings, correspondence, and other documents regarding an uncontested case.

N.J.A.C. 14:17-10.4 pertains to the use of cameras and recording devices in uncontested cases.

N.J.A.C. 14:17-10.5 pertains to appearances before the Board in uncontested cases.

N.J.A.C. 14:17-10.6 requires that three days be added to any prescribed period when service is made by mail.

N.J.A.C. 14:17-10.7 is reserved.

N.J.A.C. 14:17-11.1 requires parties to whom an order is directed to notify the Board on or before the date specified in said order whether or not the party has come into compliance.

N.J.A.C. 14:17-11.2 requires a party to respond within 15 days to any recommendation made by the Board.

N.J.A.C. 14:17-11.3 pertains to the extension of time limits for compliance.

N.J.A.C. 14:17-11.4 requires that a cable television company must submit a report within 15 days of receipt of any letter or telegram from the Board or OCTV directing an investigation of any matter under its jurisdiction.

A 60-day comment period is provided and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and N.J.A.C. 1:30-3.2 governing rulemaking calendars.

### **Social Impact**

The chapter proposed for readoption governs the procedural rules for initial petition filings and uncontested cable television matters brought before the Board and/or the Director of

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the OCTV.

The proposed readoption with amendments, as were the expiring rules, is designed to insure orderly practice and procedure before the Board and OCTV by establishing both guidelines and specific requirements pertaining to the filing of petitions requesting relief from the Board or OCTV, and to all other submissions related thereto, as well as to the handling of all proceedings before the OCTV and to the participation and conduct of all affected parties. As the proposed rules set forth the specific information that must be included in all filings as well as the time frames within which said information must be submitted, the rules proposed for readoption are essential if the OCTV is to process those petitions lawfully before it in an expeditious and just manner. While the majority of matters before the OCTV are brought by regulated cable television companies, petitions are also filed by persons who have grievances against regulated television companies or who seek other relief that is within the jurisdiction of the Board and OCTV.

The changes outlined above in the summary at N.J.A.C. 14:17-6.16 and 6.17 will specify how cable television operators must file tariffs where there are changes in regulated charges to customers and where there are only changes in service terms and conditions or a rate that is unregulated. The significance of the changes made is that the cable television companies have obligations to customers under N.J.A.C. 14:18 to notify customers where there are tariff changes, whether or not there is a rate change, and under N.J.A.C. 14:17 the procedures varied somewhat. It will also help address any inconsistencies between rate cards, used in marketing, and actual billing. The proposed changes for N.J.A.C. 14:17-6.16 and 6.17 will ensure that both Chapters 17 and 18 are in conformance.

In addition the proposed change for N.J.A.C. 14:17-6.17 will update and clarify for cable television operators and the interested public what mechanisms are used for review of rate filings by the Board. While the procedures for rate filings have been in existence, the proposal would codify them into the Administrative Code.

N.J.A.C. 14:17-6.22 is proposed to adopt legislation enacted in April of 2003. The purpose of the legislation was to allow two or more municipalities to act together to franchise or renew a franchise with a cable television franchise operator. The purpose of proposed N.J.A.C. 14:17-6.22 is to allow those municipalities to hire a private aggregator to act on their behalf in franchising or renewing the cable television franchise. The legislation requires any person or entity that wishes to act on behalf of two or more municipalities to register with the OCTV on a form prescribed by the director of the OCTV. The benefit of the private aggregator to municipalities could be significant especially if several small municipalities determined that they had cable related needs that on a regional basis that the cable television operator might be willing to provide whereas on an individual municipality basis, it might not.

### **Economic Impact**

This chapter imposes procedural requirements on cable television operators. Thus, it has some additional impact on operating costs which are, to some extent, passed on to the subscriber.

While the rules proposed for readoption with amendments impose no direct or specific

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costs, with the exception of the cost for filing of petitions pursuant to N.J.S.A. 48:5A-16, 17 and 18, all petitioners and other parties will incur varying levels of expenses in preparing and litigating petitions before the Board. Said expenses will include costs related to legal assistance, accounting work, engineering input, and expert witnesses, as well as to those expenses involved in physically preparing and filing the appropriate submissions. With regard to regulated cable companies, all reasonable levels of expenses incurred in complying with these requirements will be considered business expenses recoverable through customer charges. All fees and charges associated with practice and procedures before the Board and OCTV are set forth pursuant to statute. N.J.S.A. 47:1A-2 and N.J.S.A. 48:5A-1 et seq.

The Board does not believe that the proposed changes to N.J.A.C. 14:17-6.17 will have a significant monetary impact on cable television operators. The Board is proposing to formally adopt the requirements that are currently required for rate filings pursuant to Federal law. The proposal does not impose any new requirements that would result in additional costs to cable television operators. Although for the past ten years the expiring rules have had the flexibility to accommodate the federal rate process, and do so by reference, the proposal eliminates confusion by removing the obsolete filing requirements that were designed to mirror N.J.A.C. 14:1-5.1 et seq. for utilities for a rate process that is no longer permitted. Therefore, the Board does not believe that the proposed rules will result in any greater burden or expense on the state's cable television operators. There is a new registration requirement generating annual paperwork for municipal aggregators seeking to act on behalf of municipalities.

#### **Federal Standards Statement**

While many of the rules proposed herein are predicated upon federal laws, rules, regulations and standards, including rate regulations and associated procedures (47 U.S.C. § 76.900), the Board does not believe that any of the rules proposed herein conflict or exceed Federal standards. Instead, the proposed rules either directly codify existing federal requirements or are explicitly within the scope of regulation that the federal government reserved for the local franchising authority, which in this case is the Board.

#### **Jobs Impact**

The rules proposed for readoption are not anticipated to result in either the creation of new jobs or the loss of existing jobs and should have no impact on any sector of the economy of the State of New Jersey.

#### **Agriculture Industry Impact**

The proposed readoption with amendment has no impact on the agricultural industry.

#### **Regulatory Flexibility Analysis**

It is anticipated that the proposed readoption and proposed amendments will affect all cable television operators including the three cable television operators which are defined as a small businesses under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

It is not anticipated that the proposed readoption would require any additional initial capital costs other than those normally associated with the construction and operation of a cable

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television system. These are not expected to be unreasonable.

The proposed readoption will not impose any additional reporting, recordkeeping or compliance requirements on cable television companies, as it continues existing requirements for the filing of petitions for various kinds of relief that require, by statute, the prior approval or the Board and for the submission therewith of certain informational documents. As noted above, the proposal does add the registration requirement for municipal aggregators mandated by P.L. 2003 c. 38.

Said requirements are necessary in order that the Board and OCTV may carry out their statutory responsibilities and process all applications that are appropriately brought before it. The purpose of the proposed rules is to ensure that all participants in proceedings before the Board and OCTV are afforded their full due process rights, both procedural and substantive, and that the records made in those proceedings contain sufficient competent evidence to allow the Board to render fair, reasonable and legally sound decisions. To varying degrees, participants may choose to utilize professional services to assist in the preparation, filing or litigation of matters before the Board or OCTV. These services may include legal, accounting, engineering and economic services. As previously indicated, all reasonable levels of expenses incurred by a cable television company will be considered business expenses that may be recovered through rates charged to subscribers.

Accordingly, as the submissions required by the rules proposed for readoption are essential, the Board does not find any reason to distinguish between large and small businesses.

### **Smart Growth Impact**

As these rules are procedural only, the Board is of the opinion that the rules proposed for readoption with amendments will have no impact on either the achievement of smart growth or the implementation of the State Plan.

**Full text** of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:17.

**Full text** of the proposed amendments and the new rules follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

#### 14:17-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Commissioner" means a member of the Board of [Regulatory Commissioners] Public Utilities.

#### 14:17-1.6 Communications

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(a) – (c) (No change.)

(d) As (a) and (b) above require that all correspondence be addressed to the Board and that said submission shall be deemed to be officially received when delivered at the office of the Board, any documents received via fax will neither be date/time stamped as formally received by the Board nor be entered into the case record. Such faxed documents shall only be distributed to the addressee.

#### 14:17-6.8 Petitions for approval of the transfer of certificates of approval

(a) Petitions for approval of the transfer of certificates of approval shall conform to the requirements of N.J.A.C. 14:17-4 and N.J.A.C. 14:17-6.1 through 6.4, to the extent applicable, and shall in the body thereof, or in the attached exhibits, also provide the following information:

1. Evidence by affidavit from both parties that a copy of each certificate has been provided by transferor and that transferee has received said documents;

2. Evidence by affidavit from both parties that a copy of each municipal consent has been provided by transferor and that transferee has received said documents;

3. -10. (No change.)

(b) - (e) (No change.)

#### 14:17-6.10 Petitions for the approval of the sale or lease of property

(a) Petitions for the approval of the sale, conveyance or lease of real or personal property, or the granting of an easement, or like interest therein as required by law shall conform to the provisions of N.J.A.C. 14:17-4 and N.J.A.C. 14:17-6.1 through 6.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. - 6. (No change.)

7. [Does] Whether the proposed consideration or rental represents the fair market value of the property to be conveyed or leased [?].

8. [What] The steps that were taken to put this property on the market and accomplish its sale or lease[?]. [Was] If it was advertised [?],how it was advertised. [How?] If bids were solicited, the names of bidders and the consideration or rental offered shall be included;

9. [Is] Whether there is any relationship between the parties other than that of transferor and transferee, or lessor and lessee[?]. [What is that] If so, explain the relationship[, if any?]

10. - 12. (No change.)

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13. If property is income producing, [give] include details[,] of what the [Does] petitioner pay [all] such as carrying charges, [including] taxes, [What is the] and assessed valuation, shall be included. [?]

14. - 15. (No change.)

(b) - (f) (no change.)

14:17-6.16 Tariff filings for unregulated charges or which do not propose [increases] changes in regulated charges to customers.

(a) Tariff filings for the purpose of making effective initial tariffs or [of] revisions, changes or alterations of existing tariffs and [which] where a rate application form as promulgated by the FCC pursuant to 47 C.F.R. §76.900, et seq. is not being [are not] filed [because of the need for additional revenue from products or services covered by existing tariffs, and which do not propose increases in charges to customers, ]shall conform to the provisions of N.J.A.C. 14:17-4, [and N.J.A.C. 14:17- 6.1 through 6.4,] to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. Four copies of the proposed tariff or revision, change or alteration thereof, together with an explanation of the manner in which the tariff or change differs from the existing or a prior tariff [, and the effect, if any, upon revenues];

2. A statement of the reasons why the said tariff or change is proposed to be filed;

3. A statement of notices given, if any, together with a copy of the text of each of said notices; and

4. A statement as to the date on which it is proposed to make the tariff or change effective, which date shall not be earlier than 30 days after the filing unless otherwise permitted by the Office with the approval of the Board [; and].

[5. In the case of initial tariffs pro forma income statements for each of the first two years of operation and actual or estimated balance sheets as at the beginning and end of each year of said two-year period.]

(b) (No change)

(c) Notice shall be provided in accordance with N.J.A.C. 14:18-3.16.

14:17-6.17 Tariff filings [or petitions] and rate application filings which propose [increases] changes in regulated charges [to customers]

(a) Tariff filings or [petitions] rate application filings for the purpose of making effective revisions, changes or alterations of existing tariffs which propose to [increase] change any regulated rate, rental or charge or so to alter any classification, practice, rule or regulation [as to

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result in such an increase, ]shall [conform to the provisions of N.J.A.C. 14:17-4, and N.J.A.C. 14:17-6.1 through 6.4, to the extent applicable]do so by filing the applicable rate forms promulgated by the FCC, and shall in the body thereof, or in attached exhibits, contain all applicable information and supporting data [set forth in N.J.A.C. 14:17-6.16 and, in addition, shall contain the following information and financial statements] prepared in accordance with generally accepted accounting and auditing principles, or the applicable [uniform system of accounts] FCC regulations and:

[1. A comparative balance sheet for the most recent three-year (calendar year or fiscal year) period;

2. Comparative income statement for the most recent three-year (calendar year or fiscal year) period;

3. A balance sheet at the most recent date available;

4. A statement of the amount of revenue derived in the calendar year last preceding the institution of the proceedings from the intrastate service rendered, the rates or charges which are the subject matter of the filing;

5. A pro forma income statement reflecting operating income at present and proposed rates and an explanation of all adjustments thereon, as well as calculation showing the indicated rate of return on the average net investment for the same period as that covered by the pro forma income statement that is, investment in plant facilities plus supplies and working capital to the extent claimed, less the reserve for depreciation and advances and contributions for facilities.

6. In providing the information required by (a)5 above, a company may also file, in addition to the new rates proposed to become effective, alternative rate changes designed to produce the full revenue request, which alternatives are illustrative of the application of other possible rate designs to the filing.

7. An itemized schedule showing all payments or accruals to affiliated companies or organizations and to those who own in excess of five per cent of the cable television company's capital stock regardless of the form or manner in which such charges are paid or accrued and an explanation of the service performed for such charges;]

[8.]1. A copy of the [form of notice to customers.] draft newspaper notice of the rate changes to be published in the service area requesting subscriber comment over a 30 day period beginning the date of publication.

2. A separate cover letter for each different application indicating which service territory or system is to be affected by the cable television company's rate application. A copy of the letter should accompany each copy of the application submitted.

3. A statement as to the date on which it is proposed to make the tariff or change effective, which date shall not be earlier than 30 days after the filing unless otherwise permitted by the Office with the approval of the Board.

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(b) Each cable television company that makes a filing under subsection (a) above shall, at the same time, unless otherwise ordered or permitted by the Board, give notice thereof as follows:

1. Serve a notice of this filing which includes a statement of the municipality's procedural rights under N.J.S.A. 48:5A-18(b) and N.J.A.C. 1:1-12.1, to elect to intervene as a party presenting evidence or to participate by written and/or oral statements or briefs under N.J.A.C. 1:1- 12.6, and a copy of the proposed tariff or a copy of the petition or a statement of the effect of the proposed filing upon the municipal clerk in each of the municipalities in which there is rendered cable television service, the regulated charge for which is proposed to be ~~[increased]~~changed.

2. Serve a notice of the filing and two copies of the [petition or] tariff or rate application filing on the Department of Law and Public Safety, 124 Halsey Street, PO Box 45029, Newark, New Jersey 07102 and on the Director, Division of Ratepayer Advocate, 31 Clinton Street, PO Box 46005, Newark, New Jersey 07102; and

3. Serve on all current subscribers who are billed on a recurring basis and who will be affected by said filing, a notice of [the] filing and a statement of [the] its effect on subscribers of various classes [on all current subscribers who are billed on a recurring basis and who will be affected by said filing]. Such notice may be by bill insert or by publication in newspapers published and circulated in the cable television company's service area.

(c) - (g) (No change.)

(h) Review of rate application filings, [petitions ]and tariffs under this section shall conform and comply with the regulations and procedures established by the Federal Communications Commission for the regulation of cable television rates.

(i) If there are changes to the rates as a result of the Board's review, a copy of the final tariff reflecting the actual rates to be charged shall be filed no later than 30 days prior to the effective date of the rate change.

#### 14:17-6.18 Petitions for approval of a merger or consolidation

(a) Petitions for approval of a merger or consolidation of one cable television company of New Jersey with that of another cable television company, shall conform to the provisions of N.J.A.C. 14:17-4, and N.J.A.C. 14:17- 6.1 through 6.4, and 6.13, [as well as N.J.A.C. 14:11- 1.17] to the extent applicable, and shall contain in the petition, or as attached exhibits, the following information:

1. - 7. (No change.)

8. [Is] Whether any franchise cost is proposed to be capitalized on the books of the surviving corporation.[?] If so, explain the reasons therefor, and in what manner and over what period the items are proposed to be amortized;

9. -14. (No change.)

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#### 14:17-6.22 Private aggregators

(a) A private aggregator pursuant to N.J.S.A. 48:5A-64 (P.L. 2003, c. 38), must be registered with the office prior to entering into any contract with two or more municipalities for the purpose of facilitating the joint action of those municipalities in granting municipal consent for the provision of cable television service.

(b) To be considered registered, a private aggregator must submit a completed version of the OCTV's private aggregator registration form, thereby providing the required information including name, address, telephone number, business or organization background, and business or organization profile.

(c) A private aggregator must provide a confirmation of no change or an update of the required information to the office on or before March 15 of each calendar year.

#### 14:17-9.1 Contested case procedures

The hearing in any matter which is determined by the Board to be a contested case shall be conducted pursuant to the procedures in the Administrative Procedures Act, N.J.S.A 52:14B-1 and 52:14F-1, the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, and the Board of [Regulatory Commissioners] Public Utilities Rules of Special Applicability, N.J.A.C. 1:14.